



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Gerald Storch et al.

Examiner: Kramer, James A.

Serial No.: 09/865,893

Group Art Unit: 3627

Filed: May 25, 2001

Docket No.: T634.112.101

Title: CO-BRANDED INTERNET SERVICE PROVIDER AND RETAILER INTERNET SERVICE SITE WITH RETAILER-OFFERED INCENTIVES FOR MEMBER USE

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INDEPENDENT CLAIMS	3	-	4		x =	\$
[] MULTIPLE DEPENDENT CLAIMS PRESENTED						\$
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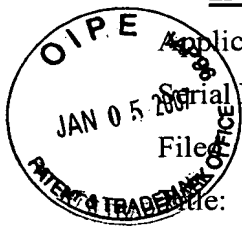
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Name: Matthew B. McNutt

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APPEAL BRIEF

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January 3, 2007

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Signed by: Matthew B. McNutt

Dear Sir:

This is an Appeal from the Office Action mailed on September 21, 2006, re-opening prosecution after submission of the Appeal Brief filed on June 21, 2006. The September 21, 2006 Office Action rejects claims 1-7, 10-24 and 30-32, with a new grounds of rejection applied to claims 6 and 32.

A Notice of Appeal in this application was mailed on December 19, 2006, and was received in the USPTO on December 26, 2006.

An Amendment Under 37 CFR 41.33 was mailed with the Notice of Appeal on December 19, 2006, canceling claims 6 and 32 from the application.

The fee required under 37 CFR § 41.20(b)(2) for filing an Appeal Brief was previously paid with the Appeal Brief filed June 21, 2006. **Applicant respectfully requests that the previously paid fee for the Appeal Brief be applied to this new Appeal Brief.** If any additional fees are required, the Patent Office is authorized to charge such fees to Deposit Account No. 500471.

Appellants request the opportunity for a personal appearance before the Board of Appeals to argue the issues of this appeal. The fee for the personal appearance will be timely paid upon receipt of the Examiner's Answer.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Table of Contents

I. Real Party in Interest.....	3
II. Related Appeals and Interferences	3
III. Status of Claims	3
IV. Status of Amendments	3
V. Summary of the Claimed Subject Matter.....	3
VI. Grounds of Rejection to be Reviewed on Appeal.....	5
VII. Argument.....	5
VIII. Conclusion.....	12
Claims Appendix	13
Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)	17
Related Proceedings Appendix under 37 C.F.R. § 41.37 (c)(1)(ix)	18

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

I. REAL PARTY IN INTEREST

The real party in interest is Target Brands, Inc. of Minneapolis, Minnesota.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of other prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS

Claims 1-5, 7, 10-24 and 30-31 are pending. Claims 1-5, 7, 10-24 and 30-31 have been finally rejected and are being appealed.

IV. STATUS OF AMENDMENTS

An Amendment Under 37 CFR 41.33 was mailed with the Notice of Appeal on December 19, 2006, canceling claims 6 and 32 from the application.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The Summary is set forth as an exemplary embodiment as the language corresponding to independent claims 1, 30, and 31. Discussions about elements of claims 1, 30, and 31 can be found at least at the cited locations in the specification and drawings.

The present invention, as claimed in independent claim 1, provides a method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site with a graphical user interface, comprising the steps of: providing members access to a co-branded Internet site including the graphical user interface of the Internet service provider accessed through the Internet service site and one or more links to the Internet shopping site of the retailer; and providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site; wherein providing members incentives comprises providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer.

Illustrative implementations of the subject matter of claim 1 are described in the specification, e.g., at page 7, lines 13-21, page 8, lines 12-17, and Figs. 1-3.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

The present invention, as claimed in independent claim 30, provides a method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site, comprising the steps of: establishing a co-branded Internet site accessible through the Internet service site of the Internet service provider, the co-branded Internet site comprising designations of both the retailer and the Internet service provider, the co-branded Internet site including one or more links to the Internet shopping site of the retailer, wherein the Internet service provider offers a news channel featuring news articles of interest to a demographic group of members; distributing at retailer locations client software for accessing the co-branded Internet site; providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site; and providing to members a link to a news article and a link to a page on the Internet shopping site offering for sale a product featured in the news article.

Illustrative implementations of the subject matter of claim 30 are described in the specification, e.g., at page 7, lines 13-21, page 9, lines 6-17, page 12, lines 5-7, and Figs. 1-3.

The present invention, as claimed in independent claim 31, provides a method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site with a graphical user interface, comprising the steps of: providing members access to a co-branded Internet site including the graphical user interface of the Internet service provider accessed through the Internet service site and one or more links to the Internet shopping site of the retailer; and providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site; wherein providing members incentives comprises providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer through the co-branded Internet site.

Illustrative implementations of the subject matter of claim 31 are described in the specification, e.g., at page 7, lines 13-21, page 8, lines 12-17, and Figs. 1-3.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

VI. A. First Ground of Rejection

Claims 1-5, 11-24 and 31 stand rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of “American Interactive Media and Shopping.com Announce Strategic Marketing Agreement” (hereinafter AIME).

VI. B. Second Ground of Rejection

Claim 7 stands rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of AIME as applied to claim 1 above, and further in view of Staples.com.

VI. C. Third Ground of Rejection

Claim 10 stands rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of AIME, as applied to claim 1 above, and further in view of “AOL” Wal-Mart next to team on Net service” by Sandeep Junnakar (hereinafter Junnakar).

VI. D. Fourth Ground of Rejection

Claim 21 stands rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of AIME as applied to claim 1 above, and further in view of OfficeDepot.com.

VI. E. Fifth Ground of Rejection

Independent claim 30 stands rejected under U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of AIME in further view of Junnakar, as applied to claim 10 above, and further in view of “IBM to sell Aptiva direct” by Joe Wilcox (hereinafter Wilcox).

VII. ARGUMENT

VII.A First Ground of Rejection

Claims 1-5, 11-24 and 31 stand rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of “American Interactive Media and Shopping.com Announce Strategic Marketing Agreement” (hereinafter AIME). Appellants assert that the rejection of claims 1-5, 11-24 and 31 under 35 USC § 103(a) should be reversed based on the following:

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Under 35 U.S.C. §103, to establish a *prima facie* case of obviousness, three basic criteria must be met:

- (1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference to combine reference teachings;
- (2) There must be reasonable expectation of success;
- (3) The prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Appellant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (F.E.D. Cir. 1991).

Appellants respectfully submit that the combination of Tobin and AIME cannot support a case of *prima facie* obviousness as to the claims because, among other possible reasons, the combination of references fails to disclose all of the elements of the present invention as purported in the Final Office Action. In particular, with respect to independent claims 1 and 31, Appellants respectfully submit that Tobin and AIME, individually and in combination, fail to teach or suggest *at least* **“providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer”** (independent claim 1), and **“providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer through the co-branded Internet site”** (independent claim 31).

With regard to independent claims 1 and 31, the Final Office Action mailed December 20, 2005, acknowledges that Tobin does not specifically teach wherein providing members incentives comprises providing members with a discount on subscription fees for access to the co-branded Internet site based upon quantity of merchandise purchased from the retailer (Final Office Action, page 3, lines 4-6; page 6, lines 14-15). To overcome the acknowledged deficiency of Tobin, the Final Office Action cites AIME as teaching accumulation of “Maximizer Dollars” based on a quantity of merchandise purchased from Shopping.com and redeemable for discounted or free internet access (Final Office Action, page 3, lines 7-10; page 6, lines 14-15). The Office Action concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the incentives as allegedly taught by Tobin to include discounted or free Internet service based on quantity of

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

merchandise purchased as allegedly taught by AIME (Final Office Action, page 3, lines 11-15; page 6, lines 14-15).

However, Appellants submit that **AIME is completely silent and provides absolutely no teaching or suggestion regarding how “Maximizer Dollars” may be accumulated.** The teachings of AIME regarding discounted or free Internet access are limited to a single statement that “Benefits include no set up fees, and the ability to accumulate and redeem ‘Maximizer Dollars’ for discounted or free internet access.” There is simply no teaching or suggestion in AIME that accumulation of “Maximizer Dollars” are related to a quantity of merchandise purchased from the retailer. The noted deficiencies of AIME were set forth in the Amendment Under 37 CFR 1.116 mailed on March 7, 2006. In response, the Advisory Action mailed March 20, 2006, introduced a *new reference* (i.e., “Shopping.com Announces the Grand Opening of the Internet’s First Full Service Retail Destination Hub Site”) as teaching that Maximizer Dollars taught in AIME are inherently accumulated based on the purchase of products and/or services from Shopping.com (Advisory Action, page 2, lines 7-13).

Contrary to the Examiner’s position, Appellants submit that Maximizer Dollars as taught in AIME are *not* inherently accumulated based on the purchase of products and/or services from Shopping.com. **There are any number of possible ways that Maximizer Dollars may be accumulated other than by the purchase of products or services (e.g., signing up additional members, as rewards for clicking on banner advertisements on the site, etc.) such that accumulation based on the purchase of products or services is not inherent in AIME,** as suggested by the Examiner. Indeed, Appellants submit that the introduction of a *new reference* supports Appellants’ position that AIME fails to teach accumulation of Maximizer Dollars based on a quantity of merchandised purchased. Appellants further submit that the introduction of the *new reference* requires withdrawal of the finality of the Office Action and issuance of a new non-final action.

For at least the reasons provided above, the combination of Tobin and AIME cannot support a 35 U.S.C. 103(a) rejection of independent claims 1 and 31, and withdrawal of the rejection is respectfully requested.

Dependent claims 2-5 and 11-24 depend directly or indirectly from independent claim 1 which is not obvious over Tobin in view of AIME for at least the reasons provided above. Accordingly, dependent claims 2-5 and 11-24 are also not obvious over Tobin in view of

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

AIME at least by reason of their dependency from claim 1. Therefore, withdrawal of the rejection of claims 2-5 and 11-24 under 35 U.S.C. 103(a) is also respectfully requested.

VII.B Second Ground of Rejection

Claim 7 stands rejected under 35 U.S.C. §103(a) as purportedly being unpatentable over Tobin in view of AIME as applied to claim 1 above, and further in view of Staples.com. Appellants assert that the rejection of claim 7 under 35 USC § 103(a) should be reversed based on the following:

The Final Office Action alleges that the combination of Tobin in view of AIME, as described above, teaches all the limitations of claim 7 except wherein providing members incentives comprises providing members with notice of store-based clearances, promotional events and/or special events through the co-branded Internet site before publishing notices for such special events to non-members (Final Office Action, page 7, lines 14-18). To overcome the acknowledged deficiencies of Tobin, the Office Action cites Staples.com as allegedly teaching publishing to registered users (members) “News and Hot Offers” before publishing to non-registered users (non-members) (Final Office Action, page 7, line 19 through page 8, line 2). The Final Office Action alleges that “News and Hot Product Offers” represents Appellants’ claimed “notice of store-based clearances, promotional events and/or special events” and concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Tobin to provide registered users with “News and Hot Product Offers” notices before non-registered users as taught by Staples.com. (Final Office Action, page 8, lines 2-6).

Claim 7 depends directly from independent claim 1, which is not obvious over Tobin in view of AIME for at least the reasons set forth above. Staples.com does not overcome the noted deficiencies of the Tobin/AIME combination, in that Staples.com makes no teaching regarding “providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer.” Accordingly, dependent claim 7 is also not obvious in view of the art of record.

In addition, contrary to the characterization of Staples.com set forth in the Final Office Action, Appellants’ submit that **Staples.com fails to teach or suggest “providing members with notice of store-based clearances, promotional events and/or special events through the co-branded Internet site before publishing notices for such special events to non-members.”** There is no teaching or suggestion in Staples.com that the “News and Hot

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Product Offers” are provided to one class of users (i.e., members) before being provided to another class of users (i.e., non-members). In the Advisory Action mailed March 20, 2006, the Examiner asserts that “the hot news items provided by email are not distributed to a user unless he becomes a ‘member’, as such they inherently must be given to members before non-members (since they are never given to non-members).” (Advisory Action, page 3, lines 5-9). However, the entering of an e-mail address simply allows a user to receive the “News and Hot Product Offers” in a different manner (i.e., via e-mail, rather than visiting the retailer’s web site). There is no teaching or suggestion, and it is certainly not inherent, that the e-mail recipients in Staples.com receive the news and product offers before the news and product offers are offered on the web site, or that such offers are not made available to all visitors to the web site. It is only Appellants’ disclosure that teaches providing members with notice of store-based clearances, promotional events and/or special events through the co-branded Internet site before publishing notices for such special events to non-members.

For at least the reasons provided above, the combination of Tobin, AIME and Staples.com cannot support a 35 U.S.C. 103(a) rejection of claim 7, and withdrawal of the rejection is respectfully requested.

VII.C Third Ground of Rejection

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tobin in view of AIME, as applied to claim 1 above, and further in view of “AOL” Wal-Mart next to team on Net service” by Sandeep Junnakar (hereinafter Junnakar). Appellants assert that the rejection of claim 10 under 35 USC § 103(a) should be reversed based on the following:

The Final Office Action alleges that the combination of Tobin in view of AIME, as described above, teaches all the limitations of claim 10 except wherein the retailer operates retail stores and the method further comprises distributing software for the co-branded Internet site at the retail stores (Final Office Action, page 8, lines 10-13). To overcome the acknowledged deficiencies of Tobin, the Final Office Action cites Junnakar as allegedly teaching a co-branded website between ISP AOL and retailer Wal-Mart including the distribution of software at the retail establishment (Final Office Action, page 8, lines 14-16). The Final Office Action concludes it would have been obvious to one of ordinary skill in the art at the time of the invention modify the teachings of Tobin to include a retailer such as Walmart and to distribute software at the retail location as taught by Junnakar (Final Office Action, page 8, lines 17-21).

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Claim 10 depends directly from independent claim 1, which is not obvious over Tobin in view of AIME for at least the reasons set forth above. Junnakar does not overcome the noted deficiencies of the Tobin/AIME combination, in that Junnakar makes no teaching regarding “providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer.” Accordingly, dependent claim 10 is also not obvious in view of the art of record.

For at least the reasons provided above, the combination of Tobin, AIME and Junnakar cannot support a 35 U.S.C. 103(a) rejection of claim 10, and withdrawal of the rejection is respectfully requested.

VII.D Fourth Ground of Rejection

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tobin in view of AIME as applied to claim 1 above, and further in view of OfficeDepot.com. Appellants assert that the rejection of claim 21 under 35 USC § 103(a) should be reversed based on the following:

The Final Office Action alleges that the combination of Tobin in view of AIME, as described above, teaches all the limitations of claim 21 except including a link to an application for a proprietary credit card issued by the retailer (Final Office Action, page 9, lines 3-5). To overcome the acknowledged deficiencies of Tobin, the Final Office Action cites OfficeDepot.com as teaching including on a website a link to an Application for an Office Depot Credit card (Final Office Action, page 9, lines 6-8). The Final Office Action concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the co-branded website of Tobin to include a like to an application for a proprietary credit card issued by the retailer as taught by OfficeDepot.com (Final Office Action, page 9, lines 9-13).

Claim 21 depends directly from independent claim 1, which is not obvious over Tobin in view of AIME for at least the reasons set forth above. OfficeDepot.com does not overcome the noted deficiencies of the Tobin/AIME combination, in that OfficeDepot.com makes no teaching regarding “providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer.” Accordingly, dependent claim 21 is also not obvious in view of the art of record.

For at least the reasons provided above, the combination of Tobin, AIME and OfficeDepot.com cannot support a 35 U.S.C. 103(a) rejection of claim 10, and withdrawal of the rejection is respectfully requested.

VII.E Fifth Ground of Rejection

Independent claim 30 stands rejected under U.S.C. §103(a) as being unpatentable over Tobin in view of AIME in further view of Junnakar, as applied to claim 10 above, and further in view of “IBM to sell Aptiva direct” by Joe Wilcox (hereinafter Wilcox). Appellants assert that the rejection of claim 30 under 35 USC § 103(a) should be reversed based on the following:

The Final Office Action alleges that the combination of Tobin in view of AIME and in further view of Junnakar, as described above, teaches all the limitations of claim 30 except providing to members a link to news articles and a link to a page on the Internet shopping site offering for sale a product featured in the news article (Final Office Action, page 9, lines 17-20). To overcome the acknowledged deficiencies of Tobin, AIME and Junnakar, the Final Office Action cites Wilcox as evidence that prior to Appellants’ invention it was old and well known to include within news articles links to product pages that sell the products featured in the article (Final Office Action, page 10, lines 1-3). The Office Action further alleges that Tobin teaches links to news articles (Final Office Action, page 10, lines 3-4). The Final Office Action concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the news articles of Tobin to include links to product pages to buy the products featured in the articles as taught by Wilcox (Final Office Action, page 10, lines 4-8).

Appellants submit that the cited references, individually and in combination, fail to teach or suggest *at least* **“providing to members a link to a news article and a link to a page on the Internet shopping site offering for sale a product featured in the news article.”** Although Tobin teaches links to news articles (e.g., as in Fig. 11A), the links in Tobin are links having *disparate* content (e.g., “Money Personal Finance”; “Sports”; “Techwatch” as shown in Fig. 11A of Tobin). Wilcox teaches news articles having embedded links to product pages that sell the products featured in the article. However, in Wilcox, a user can only access the link to a page offering for sale a product featured in the news article after accessing the news article. That is, Wilcox teaches “serial” access to the links. The user is not provided **a link to a news article and a link to a page offering for**

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

sale a product featured in the news article. AIME and Junnakar both fail to remedy the deficiencies of Tobin and Wilcox, as neither AIME nor Junnakar teach or suggest providing a link to a news article and a link to a page on the Internet shopping site offering for sale a product featured in the news article.

For at least the reasons provided above, the combination of Tobin, AIME, Junnakar, and Wilcox cannot support a 35 U.S.C. 103(a) rejection of claim 30, and withdrawal of the rejection is respectfully requested.

VIII. CONCLUSION

For the foregoing reasons, appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Any inquiry regarding this Appeal should be directed to either William M. Hienz, III at Telephone No. (612) 696-0109, or Matthew B. McNutt at Telephone No. (612) 767-2510, Facsimile No. (612) 573-2005.

Respectfully submitted,

Gerald Storch et al.,

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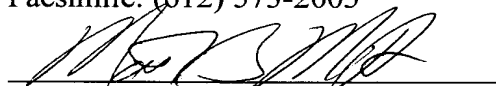
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Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

CLAIMS APPENDIX

1. (Previously Presented) A method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site with a graphical user interface, comprising the steps of:

providing members access to a co-branded Internet site including the graphical user interface of the Internet service provider accessed through the Internet service site and one or more links to the Internet shopping site of the retailer; and

providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site;

wherein providing members incentives comprises providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer.

2. (Original) The method of claim 1 wherein providing the co-branded Internet site includes providing a link to the Internet shopping site on all pages of the Internet service site.

3. (Original) The method of claim 1 comprising providing the link to the Internet shopping site with icons comprising one or more trademark logos of the retailer.

4. (Previously Presented) The method of claim 1 wherein the graphical user interface of the co-branded Internet site includes a tool bar; and the method further comprises locating a link to the Internet shopping site on the tool bar.

5. (Original) The method of claim 1 wherein providing members incentives includes providing the members with a discount on merchandise purchased on the Internet shopping site accessed through the co-branded Internet site.

6. (Canceled)

7. (Previously Presented) The method of claim 1 wherein providing members incentives comprises providing members with notice of store-based clearances, promotional events and/or special events through the co-branded Internet site before publishing notices for such special events to non-members.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

8 - 9. (Canceled)

10. (Previously Presented) The method of claim 1 wherein the retailer operates retail stores and the method further comprises distributing software for the co-branded Internet site at the retail stores.

11. (Original) The method of claim 1 comprising distributing software for the co-branded Internet site on the Internet shopping site.

12. (Original) The method of claim 1 comprising distributing software for the co-branded Internet site on the Internet service site of the Internet service provider.

13. (Previously Presented) The method of claim 1 comprising co-branding software for accessing the co-branded Internet site with designations of the retailer and the Internet service provider.

14. (Previously Presented) The method of claim 1 comprising co-branding software for accessing the co-branded Internet site.

15. (Previously Presented) The method of claim 1 comprising advertising the co-branded Internet site on the Internet service site of the Internet service provider.

16. (Previously Presented) The method of claim 1 comprising:
providing the co-branded Internet site with a tool bar having a link to a menu list of a member's regularly used links; and
including an icon on the tool bar that is linked to the Internet shopping site.

17. (Previously Presented) The method of claim 16 wherein the icon comprises one or more logos of the retailer.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

18. (Original) The method of claim 1 comprising providing the co-branded Internet site with retailer channel links to ISP channel page content of interest to one or more demographic groups of members.

19. (Original) The method of claim 1 comprising providing the Internet shopping site with retailer channel links to ISP channel page content of interest to one or more demographic groups of members.

20. (Original) The method of claim 19 comprising providing the Internet shopping site with retailer channel links to non-ISP channel page content.

21. (Previously Presented) The method of claim 1 wherein the co-branded Internet site includes a link to an application for a proprietary credit card issued by the retailer.

22. (Previously Presented) The method of claim 1 comprising providing the co-branded Internet site with links to departments within stores operated by the retailer.

23. (Original) The method of claim 22 wherein the links to the departments at the stores include order requests.

24. (Original) The method of claim 1 comprising providing the co-branded Internet site with links to affiliates of the retailer.

25 - 29. (Canceled)

30. (Previously Presented) A method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site, comprising the steps of:

establishing a co-branded Internet site accessible through the Internet service site of the Internet service provider, the co-branded Internet site comprising designations of both the retailer and the Internet service provider, the co-branded Internet site including one or more links to the Internet shopping site of the retailer, wherein the Internet service provider offers a news channel featuring news articles of interest to a demographic group of members;

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

distributing at retailer locations client software for accessing the co-branded Internet site;

providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site; and

providing to members a link to a news article and a link to a page on the Internet shopping site offering for sale a product featured in the news article.

31. (Previously Presented) A method for a retailer of the type having an Internet shopping site to sell merchandise over the Internet in affiliation with an Internet service provider of the type having an Internet service site with a graphical user interface, comprising the steps of:

providing members access to a co-branded Internet site including the graphical user interface of the Internet service provider accessed through the Internet service site and one or more links to the Internet shopping site of the retailer; and

providing members of the co-branded Internet site with incentives to access and shop on the Internet shopping site of the retailer through the co-branded Internet site;

wherein providing members incentives comprises providing the members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer through the co-branded Internet site.

32. (Canceled)

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Appeal Brief

Applicant: Gerald Storch et al.

Serial No.: 09/865,893

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.